



PATENT

Docket No. 1948-4835

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s) : BRUN et al.
Serial No. : 10/766,988 Art Unit : 2875
Filed : January 28, 2004 Examiner : J. Choi
For : METHOD OF PROVIDING MODULATED ILLUMINATION OF A
ROAD, AND A VEHICLE HEADLIGHT FOR PERFORMING THE
SAID METHOD

RESPONSE TO RESTRICTION REQUIREMENT

**Mail Stop Amendment
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450**

Sir:

Kindly consider the following election in response to the September 7, 2005 Restriction Requirement.

ELECTION

The Examiner, in the Office Action dated September 7, 2005, required restriction to one of the following groups of claims:

Group I - "Claims 1-10 drawn to subject matter supported by vehicle structure (e.g., especially adapted for vehicle with condition responsive, classified in class 362, subclass 464";

Group II - "Claims 11-14 & 16-23 drawn to subject matter including light fibers, rods or pipes including liquid crystal display, classified in class 362, subclass 561"; or

Group III- "Claim 15 drawn to subject matter including light source (or support thereof) and modifier with plural serial lens elements or components, classified in class 362, subclass 268".

Applicant respectfully traverses the restriction requirement.

Section 803 of the Manual of Patent Examining Procedure (MPEP) states, in part:

“If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions”

and

“There are two criteria for a proper requirement for restriction between patentably distinct inventions:

(A) The inventions must be independent (see MPEP § 802.01, § 806.04, § 808.01) or distinct as claimed (see MPEP § 806.05 - § 806.05(i)); and

(B) There must be a serious burden on the examiner if restriction is required (see MPEP § 803.02, § 806.04(a) - § 806.04(i), § 808.01(a), and § 808.02).”

The Examiner has identified that each group is drawn to subject matter classified in U.S. Class 362. Each group being identified as being classified in separate subclasses, i.e., subclasses 464 (Group I), 561 (Group II), and 268 (Group III). The Examiner, however, has not established that a separate field of search would be required for each of the identified groups. More specifically, the Examiner has not identified the required field of search for the groups and has not shown that it would be necessary to search one of the groups in places where no pertinent prior art to another group exists. As such, the Examiner has not satisfied the two criteria for restriction as set forth in Section 803 of the MPEP.

Applicant respectfully submits that the subject matter of the groups is such that all of the claims may be searched together without imposing any serious burden on the Examiner.

Accordingly, withdrawal of the restriction requirement is respectfully solicited.

To fulfill Applicants' duty to reply to the restriction requirement, **Applicant hereby elects Group II, Claims 11-14 & 16-23.** Applicant reserves the right to file divisional application based on the non-elected claims.

AUTHORIZATIONS:

The Commissioner is hereby authorized to charge any additional fees which may be required for the timely consideration of this amendment, or credit any overpayment to Deposit Account No. 13-4500, Order No. 1948-4835.

Respectfully submitted,
MORGAN & FINNEGAN, L.L.P.

Date: September 30, 2005

By: 

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